PIL 59/2004
BEFORE
THE HON'BLE MR JUSTICE D. BISWAS, CHIEF JUSTICE (ACTG)
THE HON'BLE MR JUSTICE B.D. AGARWAL
CHIEF JUSTICE(ACTG),

1. Heard Mr. R.P. Sarmah, learned counsel for the petitioners, Mr. R. Bhattacharjee, learned Sr. counsel and Ms. B. Goyal, learned state counsel appearing on behalf of the respondents.

2. This Public Interest Litigation is directed against the allotment of a plot of land measuring 1 Bigha 5 Lachas covered by Dag No.178 of Mouza-Beltola, Village- Sarumotoria in favour of respondent no.4, Ananda Academy.

3. At the time of motion hearing, by an order dated 20.12.2004 the respondent no.4 was directed not to undertake any construction activity on the land subject to further verification. Thereafter, on 12.1.2005, after hearing the learned counsel for the parties, the respondent no.4 was allowed to complete the construction of the Septic Tank and Urinal for convenience of the school going children.

4. During the course of hearing, Mr. Sarmah, learned counsel for the petitioner submitted that the concerned plot of land ought not to have been allotted to the school as it has been an open field for all the time and construction of the school building in the plot of land will reduce the open space area, presently used as a playground for the children.

5. Refuting the above submission, Mr. R. Bhattacharjee, learned Sr. counsel submitted that the school in question has been
functioning within the Secretariat Complex since 1974 and because of the present ongoing construction of the Secretariat buildings, shifting of the school became necessary. For this purpose, the state authority allotted the aforesaid plot of land near the Super Market area outside the Secretariat Complex. According to Mr. Bhattacharjee, learned Sr. counsel, the school has been functioning in this plot of land in full fledged form and therefore question of cancellation of the allotment of the land will not be conducive to public interest. Further, Mr. Bhattacharjee, learned Sr. counsel pointed out that the land in question was allotted in the month of September, 2002 and immediately thereafter the school authority started its construction. However, the present PIL was filed in the month of December, 2004. If the allotment of the land to the school and construction activities undertaken by the school authority were detrimental to the interest of the neighbouring people, they should have approached this court immediately after the allotment of the land and construction activities undertaken. At this belated stage, Mr. Bhattacharjee, learned Sr. counsel submitted that it would not be in public interest to interfere with the order of allotment.

6. We have given our due consideration to the submissions advanced by the learned counsel for the parties and have also examined the relevant office files produced by Ms. B. Goyal, learned state counsel.

7. From the notes of the office files, we find that the school in question has been imparting education to the children of the employees as well as nearby people since 1974. The note further
indicates the necessity of shifting of the school from the Secretariat Complex in view of the construction of the Secretariat buildings and for that purpose, the land in question was proposed to be allotted. The said proposal was duly approved by the higher authorities and eventually the allotment order was issued.

8. Having regard to the above facts and circumstances and particularly the delay on the part of the writ petitioners in approaching this court, we are of t

he opinion that it would be of no consequence to interfere with the order of all otment at this stage.

9. In the result, the PIL is dismissed.